

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ORRIN LYNN TOLLIVER, JR. p/k/a  
DAVID PAYTON,

Plaintiff,

vs.

**Civil Action No. 05-10840 (JFK)**

JAMES LOUIS MCCANTS, an individual doing  
business as JIMI MAC MUSIC and  
OG MUSIC; CHERRY RIVER MUSIC  
COMPANY; WILL I AM MUSIC, INC;  
WILL ADAMS; and UMG RECORDINGS,  
INC.,

Defendants.

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**PLAINTIFF'S PROPOSED VOIR DIRE**

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## Introduction

This is a case about damages which flowed from a copyright infringement.

The plaintiff in this case, that is the party that brought this lawsuit, is named Orrin Lynn Tolliver. Mr. Tolliver has been, among other things, a musical performer. Because Mr. Tolliver was a radio personality, he performed under a name, or pseudonym. Mr. Tolliver's pseudonym was David Payton.

Mr. Tolliver wrote a musical composition called "I Need A Freak." He brought this lawsuit because he believed that the defendant, Mr. McCants, improperly infringed his copyright. Specifically, Mr. Tolliver believed that Mr. McCants wrongfully issued a license to the musical group The Black Eyed Peas.

After the parties engaged in what is known as discovery, they each asked the Court to rule on their claims. After reviewing the submissions for both sides, I determined that the plaintiff, Mr. Tolliver was the owner of the original composition. Because Mr. McCants admitted issuing the license for use by the Black Eyed Peas, I granted what is called summary judgment.

This case is now only about damages. The parties expect that this case will take only about one day.

I am now going to ask you what is known as voir dire. Generally speaking, this means that it now generally refers to the process by which prospective jurors are questioned about their backgrounds and potential biases before being chosen. This allows the Court and the parties to consider potential jurors.

Question One

Please state your occupation.

Question Two

Do you know the plaintiff, Mr. Tolliver? If the answer is yes, please advise how you know Mr. Tolliver.

Question Three

Before today, had you ever heard of the plaintiff, Mr. Tolliver? If the answer is yes, please advise as to under what circumstances you heard of Mr. Tolliver.

Question Four

Do you know the plaintiff, Mr. Tolliver? If the answer is yes, please advise how you know Mr. Tolliver.

Question Five

Before today, had you ever heard of the defendant, James Louis McCants? If the answer is yes, please advise as to under what circumstances you heard of Mr. McCants.

Question Six

Do you know Jay Berger of Artists Rights Corporation? If the answer is yes, please advise how you know Mr. Berger.

#### Question Seven

Have you ever been involved in the entertainment industry? If the answer is yes, please explain that involvement.

#### Question Eight

Do you have any type of background in accounting? If the answer is yes, please explain that background.

#### Question Nine

Although he previously was represented by a lawyer in this case, the defendant, Mr. McCants, has decided to proceed on his own behalf. Do you think that the fact of Mr. McCants not being represented by a lawyer will have an effect on your ability to be impartial in this case? If the answer is yes, please explain why.

#### Question Ten


I told you that I previously determined that the defendant, Mr. McCants infringed the copyright in this lawsuit. I will instruct you that my finding has no bearing on the issue of damages. Do you think that the fact that your ability to deliberate only on the issue of damages will be impaired? If the answer is yes, please explain why.

Question Eleven

Is there any other reason that you believe that you cannot fairly deliberate in this case? If so, please explain.

**Dated:** June 14, 2011  
New York, New York

**BAKER HOSTETLER, LLP**

By:   
Oren J. Warshavsky (OW 9469)

45 Rockefeller Plaza  
New York, New York 10111  
Telephone: (212) 589-4624  
Facsimile: (212) 589-4201  
e-mail: [owarshavsky@bakerlaw.com](mailto:owarshavsky@bakerlaw.com)

*Attorneys for Plaintiff*